

**State of California
Office of Administrative Law**

In re:
Board of Education

Regulatory Action:

Title 05, California Code of Regulations

Adopt section: 11526

Amend sections: 11520, 11524, 11525

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2017-1106-05

OAL Matter Type: Emergency Readopt (EE)

This action readopts the prior emergency action by the Board of Education that implemented the statutory fee waiver process and documentation requirements for foster youths taking the California High School Proficiency Exam. (See OAL File No. 2017-0523-02E.)

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 11/29/2017 and will expire on 2/28/2018. The Certificate of Compliance for this action is due no later than 2/27/2018.

Date: November 16, 2017



**Nicole C. Carrillo
Attorney**

**For: Debra M. Cornez
Director**

**Original: Tom Torlakson
Copy: Hillary Wirick**

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE
NUMBERS

NOTICE FILE NUMBER

Z-

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

2017-1106-05EE

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

NOV 16 2017

1:57 P.M.

For use by Office of Administrative Law (OAL) only

2017 NOV -6 P 3:11
OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
State Board of Education

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) California High School Proficiency Examination	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2017-0523-02E
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 11526
	AMEND 11520, 11524, 11525
	REPEAL
TITLE(S) 5	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)		<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) <u>November 29, 2017</u>
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) request NC 11/15/17	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON

Hillary Wirick, Regulations Analyst

TELEPHONE NUMBER

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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Amy Bisson Holloway

DATE

10/31/17

TYPED NAME AND TITLE OF SIGNATORY

Amy Bisson Holloway, General Counsel

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

NOV 16 2017

Office of Administrative Law

- The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in ~~strikeout~~.

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 8. High School Proficiency Certificates

Article 1. Certificate of Proficiency

§ 11520. Definitions.

(a) "Certificate" means a certificate of proficiency awarded by the State Board of Education (SBE) as described in Education Code section 48412(a)(2).

(b) "Certification" means documentation from a services provider, or a county or state agency, certifying the examinee is a homeless youth or a foster youth.

(c) "Parent" as used in Education Code section 48410(e), relating to verified parental approval, means the natural parent, or adoptive parent or legal guardian, having legal custody of the pupil.

(d) "Testing accommodations" means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores.

NOTE: Authority cited: Sections 48410 and 48412, Education Code. Reference: Sections 48410 and 48412, Education Code.

§ 11524. Waiver of Fees.

(a) The contractor selected to administer the examination shall not collect fees from individuals who are under 25 years of age, meet all other registration requirements, and are verified to be a homeless youth by a homeless services provider or a foster youth as defined in Education Code section 48412, except for fees for additional services not related to regular test registration including, but not limited to, registration for a test administration after the regular registration deadline set by the contractor, request to change the testing date after the regular registration deadline set by the contractor, request for a transcript or duplicate certificate, or request to expedite services. The contractor shall not charge fees to individuals who are certified to be a homeless youth

1 or a foster youth for any other administrative services without prior approval of the
2 California Department of Education (CDE).

3 (b) The fee waiver for individuals who are under age 25 and are certified to be a
4 homeless youth by a homeless services provider, or a foster youth as defined in
5 Education Code section 48412 shall include only fees for services related to test
6 administration. The fee waiver shall not include fees for services or documents required
7 to verify the need for testing accommodations, test preparation, or other services not
8 related to test administration. NOTE: Authority cited: Section 48412, Education Code.
9 Reference: Section 48412, Education Code.

10
11 **§ 11525. Homeless Certification.**

12 (a) To be eligible for a fee waiver, at the time of registration for a test administration,
13 a homeless youth must submit all standard required registration materials to the
14 contractor including documentation required for all testing accommodations that the
15 individual may need and an original completed certification.

16 (b) The CDE-developed certification form may be used to certify that the registrant
17 is homeless. Certification must include all of the following information:

18 (1) The full legal name of the registrant;

19 (2) The date of birth of the registrant;

20 (3) The signature of the registrant affirming, under penalty of perjury, a statement
21 that he or she is homeless and under 25 years of age;

22 (4) The printed name of the homeless services provider;

23 (5) The title of the homeless services provider;

24 (6) The business address, phone number, and e-mail address of the homeless
25 services provider;

26 (7) The signature of the homeless services provider affirming, under penalty of
27 perjury, a statement that he or she is an authorized homeless services provider and
28 that the registrant is homeless as defined in Education Code section 48412;

29 (8) The date that the certification is completed by the homeless services provider;
30 and

31 (9) The date the certification expires.

32 (c) Certification is valid for a period of one year from the certification date and may
33 be renewed annually until the certified homeless youth reaches 25 years of age. If the

1 certified homeless youth reaches 25 years of age within one year from the certification
2 date, the certification will be valid only until one day before the certified homeless youth
3 reaches 25 years of age.

4 (d) The homeless services provider or the provider's agency shall retain a copy of
5 all certification(s) issued to certify homeless youth(s) until each certified homeless
6 youth reaches 28 years of age. The homeless services provider or the provider's
7 agency shall make copies of certification(s) available to the CDE upon request.

8 (e) The contractor shall retain all original certification(s) issued to certify homeless
9 youth(s) until each homeless youth reaches 28 years of age. The contractor shall make
10 original certification(s) available to the CDE within 10 business days upon request.

11 ~~(f) The homeless services provider or the provider's agency~~ No fees shall be
12 charged ~~not charge any fees~~ to homeless youths seeking certification of their status.

13 NOTE: Authority cited: Sections 33031 and 48412, Education Code. Reference:
14 Sections 48410 and 48412, Education Code.

15
16 **§ 11526. Foster Youth Certification.**

17 (a) To be eligible for a fee waiver, at the time of registration for a test administration,
18 a foster youth must submit all standard required registration materials to the contractor
19 including documentation required for all testing accommodations that the individual
20 may need and certification of their foster youth status. This certification may be
21 provided by the county or California Department of Social Services.

22 (b) Eligibility for the fee waiver is valid until the certified foster youth reaches 25
23 years of age.

24 (c) The contractor shall retain all original certification(s) issued to foster youth(s)
25 until each foster youth reaches 28 years of age. The contractor shall make original
26 certification documentation available to the CDE within 10 business days upon request.

27 ~~(d) The service provider or the provider's agency~~ No fees shall be charged ~~not~~
28 ~~charge any fees~~ to foster youths seeking certification of their status.

29 (e) For purposes of this Article, "Foster Youth" means either current or former foster
30 youth as defined by Education Code section 48412(h).

31 NOTE: Authority cited: Section 48412, Education Code. Reference: Section 48412,
32 Education Code.

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2 07-21-17 [California Department of Education]